

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

February 10, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

STATEWIDE

SUBJECT: Recommendation to amend Hawaii
Administrative Rules Chapter:
§ 13-234-3 Mooring Rates at State boating facilities
§ 13-234-4 Mooring Rates, offshore & at anchor
§ 13-234-5 Mooring without permission
§ 13-234-25 Fees for commercial vessels
§ 13-234-34 Recreational ramp fees

Recommendation to Adoption the Amendments to
Hawaii Administrative Rules (shown above)

PURPOSE To adopt the proposed rules changes to the above listed HAR
sections principally dealing with increases to the fees for small
boat harbors in the areas generally referred to in the section titles.

REMARKS The proposed rule amendments, attached as exhibit "A", were first
proposed to the Land Board in June of 2001 but were required to
be amended by the Attorney General's Office. They were
modified and subsequently approved in October of 2001 to be
taken out to public hearings which happened, statewide, in October
of 2002. The proposed rules were met with strong public
opposition, due mainly to the 185% planned increase for the Ala
Wai SBH, and therefore were not acted upon at that time.

The proposed fee increases were scaled back to the 28% to 40%
range, varying by harbor and more in line with the growth of the
CIP over the past ten years since the last fee increase. These rules,
with the new rates, were then presented to the Land Board on
November 19, 2004, and approved for public hearings.

Some additional technical adjustments, as to form, were made by the Attorney General and a two phased round of hearings were held in October and December of 2005, with the public comment period ending on December 31, 2005.

The new rules were also re-submitted to the Small Business Regulatory Review Board which provided a letter of support for the hearing process on December 8, 2005.

MEETING & HEARING RESULTS

Two rounds of meetings and public hearings were held starting during the week of October 24, 2005 at 9 locations around the State. The second round of public hearings was held during the later weeks of December '05. All forms of public comments and testimony were received and accepted during this period and were incorporated into the process. The public comment period for written letters, faxes, and emails was open through year end December 31, 2005. Eleven letters were received, 10 in favor (including positive comments from HGEA) and one opposed. Two favorable media pieces were also noted during December..

To summarize, the comments most generally made during this two month process were:

- *The increase is reasonable, or overdue, and perhaps too small for the work that needs to be done.*
- *Please use this money to fix "XYZ" harbor.*
- *Please keep, or make, your books open*
- *Is this money sent to the general fund?*
- *Boating should seek general fund monies.*

Approximately 85% of those testifying supported the fee increase generally in the terms used above. Several people reached no conclusion and 4-5 opposed the increase. The principal negative concern was the potential for "pricing" certain segments of the population out of the market and this concerned was also mentioned in some of the positive testimony as a caution.

[At several neighbor island locations people attended the meetings believing they were about construction projects. Boating took this as an opportunity to provide details about those projects.]

A more detailed review of the hearing sites, dates, and number of attendees is shown below. All meeting were held from 6:30 pm until 8:00pm at publicly accessible sites, with proper notice.

LOCATIONS

Informational meetingsOahu:Attended

Jefferson Intermediate	Oct. 25	42
Kapalama Elem. School	Oct. 25	-0-

King Intermediate	Oct. 26	6
Waianae Small Boat Harbor	Oct. 26	17
Haleiwa Surf Center	Oct. 26	27

Maui:

King Kamehameha III School	Oct. 27	4
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Kauai:

Chiefess Kamakahahei School	Oct. 27	-0-
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Hawaii:

State Office Bld. Hilo	Oct. 27	7
Kealahou High School	Oct. 27	11

Public hearingsOahu: 2nd round

Kalanimoku Bldg.	Dec. 15	1
Jefferson Intermediate	Dec. 20	7
Keehi SBH Office	Dec. 20	5
King Intermediate	Dec. 21	2
Waianae SBH	Dec. 21	2
Haleiwa Surf Center	Dec. 21	-0-

Hawaii:

Honokohau SBH	Dec. 12	-0-
State Office Bld. Hilo	Dec. 22	5

Maui:

Maalaea Harbor	Dec. 13	-0-
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Kauai:

Chiefess Kamakahahei	Dec. 13	-0-
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Molokai DOT shelter	Dec. 13	8
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Lanai Public library	Dec. 13	-0-
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Total 144*

[* Oral & written testimony from all meetings
numbered 48: 33 for, 5 against, 10 undecided.]

RECOMMENDATION

1) That the Board approve and adopt the amendments to Hawaii Administrative Rules Chapters (as shown below) and forward them to the Governor's Office for final approval:

- § 13-234-3 Mooring Rates at State boating facilities
- § 13-234-4 Mooring Rates, offshore & at anchor
- § 13-234-5 Mooring without permission
- § 13-234-25 Fees for commercial vessels
- § 13-234-34 Recreational ramp fees

2) That these final changes be submitted, in final form, to Office of the Attorney General for review before, they are submitted to the Governor's Office.

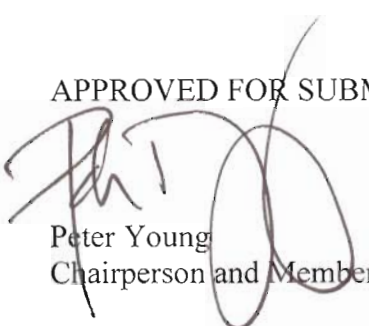
3) All other changes or conditions as may be prescribe by the Chairperson to best serve the interest of the State be incorporated into these amendments.

Respectfully submitted,



Richard K Rice
Administrator

APPROVED FOR SUBMITTAL:



Peter Young
Chairperson and Member

Amendments to sections 13-234-3, 13-234-4, 13-234-5, 13-234-25, and 13-234-34,
Hawaii Administrative Rules

1. Section 13-234-3, Hawaii Administrative Rules, is amended to read as follows:

“13-234-3 Mooring rates. (a) The [following] mooring rate schedule set forth in paragraph 1 shall become effective on the first day of the [calendar] first full month [following] occurring after the effective date of the 2005 drafted amendments [of] to this [chapter] section and shall be increased as shown in paragraphs 2 and 3 but only upon the approval by the State Legislature of new bonding issues for harbor facilities, and the increased schedule will be effective at the beginning of the fiscal year in which the new bonds are to be funded. Until the first day of the first full month occurring after the effective date of the 2005 drafted amendments to this section, the fees existing immediately prior to the effective date shall remain in full force and effect. The mooring rate schedule in this subsection is per foot of vessel length overall per month effective upon the applicant’s acceptance of the offer of an available berth. Mooring rates shall apply to the harbor facilities in the following categories: Category “A”, Ala Wai; Category “B”, Keehi Lagoon, Honokohau, Maalaea, & Lahaina; Category “C”, Haleiwa, Heeia Kea, Waianae, Nawiliwili, Port Allen, Kailua-Kona, Keauhou, & Manele; Category “D”, Wailoa, Kikiaola, Kaunakakai, North Kawaihae, & Kukuiula; Category “E”, South Kawaihae, Hana, & Halo O Lono.

<u>[TYPE OF MOORING]</u>	<u>HARBORS</u>		
	<u>ALA WAI</u>	<u>KEEHI LAHAINA MAALAEA & HONOKOHAU</u>	<u>ALL OTHERS</u>
(1) Alongside catwalk:	\$3.40	\$2.95	\$2.50
(2) Bow/stern mooring:			
On state buoy, anchor or cable:	\$2.70	\$2.30	\$2.00
Minimum fee:	\$35.00	\$35.00	\$25.00
On owner's buoy or anchor:	\$1.75	\$1.50	\$1.30
Minimum fee:	\$28.00	\$28.00	\$20.00
(3) In harbor basin:			
On state cable, buoy, or anchor:			\$1.20
Minimum Fee:			\$20.00
On owner's buoy or anchor:			\$.80
Minimum Fee:			\$13.00
(4) Skiff moorings			
(Fore and aft, all types):	\$1.15	\$1.10	\$1.00
Minimum Fee:	\$17.50	\$16.00	\$12.50
(5) Work docks (Per foot of vessel length per day):	\$.35	\$.30	\$0.25
Minimum Fee:	\$9.00	\$7.00	\$5.00

The following mooring rate schedule shall be implemented on the first day of the calendar month twelve months following the effective date of the rates listed above.

<u>TYPE OF MOORING</u>	<u>ALA WAI</u>	<u>HARBORS KEEHI LAHAINA MAALAEA & HONOKOHAU</u>	<u>ALL OTHERS</u>
(1) Alongside catwalk:	\$4.10	\$3.50	\$2.80
(2) Bow/stern mooring:			
On state buoy, anchor or cable:	\$3.40	\$2.85	\$2.50
Minimum fee:	\$43.50	\$43.50	\$31.00
On owner's buoy or anchor:	\$2.20	\$1.85	\$1.60
Minimum fee:	\$34.75	\$34.75	\$24.80
(3) In harbor basin:			
On state cable, buoy, or anchor:			\$1.50
Minimum Fee:			\$24.80
On owner's buoy or anchor:			\$1.00
Minimum Fee:			\$16.10
(4) Skiff moorings			
(Fore and aft, all types):	\$1.45	\$1.35	\$1.25
Minimum Fee:	\$21.70	\$19.85	\$15.50
(5) Work docks (Per foot of vessel length per day):	\$.45	\$.40	\$.30
Minimum Fee:	\$11.15	\$8.70	\$6.00]

TYPE OF MOORING AND STATE BOATING FACILITIES

(1) Mooring rates as of the first day of the first full month occurring after the effective date of the 2005 drafted amendments to this section:

Category	A	B	C	D	E
Along catwalk:	<u>\$5.25</u>	<u>\$4.00</u>	<u>\$3.75</u>	<u>\$3.50</u>	<u>\$1.50</u>
Bow-stern mooring:	<u>\$4.25</u>	<u>\$3.50</u>	<u>\$3.25</u>	<u>\$3.00</u>	<u>\$1.50</u>
<u>On state buoy, anchor or cable</u>					
<u>Minimum fee per month:</u>	<u>\$52.00</u>	<u>\$43.00</u>	<u>\$37.50</u>	<u>\$32.50</u>	<u>\$20.00</u>
<u>On owner's buoy or anchor:</u>	<u>\$2.75</u>	<u>\$2.30</u>	<u>\$2.00</u>	<u>\$1.75</u>	<u>\$1.50</u>
<u>Minimum fee per month:</u>	<u>\$36.00</u>	<u>\$33.50</u>	<u>\$31.00</u>	<u>\$29.00</u>	<u>\$20.00</u>
<u>In harbor basin:</u>	<u>\$4.00</u>	<u>\$3.40</u>	<u>\$3.00</u>	<u>\$2.80</u>	<u>\$1.50</u>
<u>On state cable, buoy or anchor</u>					
<u>Minimum fee per month:</u>	<u>\$48.00</u>	<u>\$40.00</u>	<u>\$36.00</u>	<u>\$33.00</u>	<u>\$20.00</u>
<u>On owner's buoy or anchor:</u>	<u>\$2.70</u>	<u>\$2.10</u>	<u>\$1.95</u>	<u>\$1.85</u>	<u>\$1.50</u>
<u>Minimum fee per month:</u>	<u>\$33.00</u>	<u>\$25.00</u>	<u>\$23.50</u>	<u>\$22.00</u>	<u>\$20.00</u>
<u>Skiff and dinghy moorings fore and aft, all types:</u>	<u>\$1.80</u>	<u>\$1.70</u>	<u>\$1.55</u>	<u>\$1.45</u>	<u>\$0.50</u>
<u>Minimum fee per month:</u>	<u>\$24.00</u>	<u>\$21.50</u>	<u>\$19.75</u>	<u>\$17.40</u>	<u>\$5.00</u>
<u>Work docks (per foot/vessel length/day):</u>	<u>\$0.55</u>	<u>\$0.50</u>	<u>\$0.40</u>	<u>\$0.35</u>	<u>\$0.30</u>
<u>Minimum fee per month:</u>	<u>\$7.00</u>	<u>\$6.00</u>	<u>\$5.00</u>	<u>\$4.00</u>	<u>\$3.00</u>

A = Ala Wai

B = Keehi Lagoon, Honokohau, Maalaea, & Lahaina

C = Haleiwa, Heeia Kea, Waianae, Nawiliwili, Port Allen, Kailua-Kona, Keauhou, & Manele

D = Wailoa, Kikiaola, Kaunakakai, North Kawaihae, & Kukuiula

E = South Kawaihae, Hana, Hale O Lono

(2) Mooring rates that become effective on the first day of the first financial year in which a \$10 million CIP reimbursable bond issue is funded for the small boat facilities:

Category	A	B	C	D	E
<u>Along catwalk:</u>	<u>\$5.67</u>	<u>\$4.32</u>	<u>\$4.05</u>	<u>\$3.78</u>	<u>\$1.62</u>
<u>Bow-stern mooring:</u>	<u>\$4.67</u>	<u>\$3.82</u>	<u>\$3.55</u>	<u>\$3.28</u>	<u>\$1.62</u>
<u>On state buoy, anchor or cable</u>					
<u>Minimum fee per month:</u>	<u>\$56.00</u>	<u>\$47.00</u>	<u>\$41.00</u>	<u>\$39.00</u>	<u>\$21.00</u>
<u>On owner's buoy or anchor:</u>	<u>\$2.97</u>	<u>\$2.48</u>	<u>\$2.16</u>	<u>\$2.00</u>	<u>\$1.62</u>
<u>Minimum fee per month:</u>	<u>\$39.00</u>	<u>\$36.20</u>	<u>\$33.50</u>	<u>\$31.30</u>	<u>\$21.00</u>
<u>In harbor basin:</u>	<u>\$4.32</u>	<u>\$3.68</u>	<u>\$3.24</u>	<u>\$3.00</u>	<u>\$1.62</u>
<u>On state cable, buoy or anchor</u>					
<u>Minimum fee per month:</u>	<u>\$52.00</u>	<u>\$43.00</u>	<u>\$38.00</u>	<u>\$35.00</u>	<u>\$21.00</u>
<u>On owner's buoy or anchor:</u>	<u>\$2.92</u>	<u>\$2.27</u>	<u>\$2.10</u>	<u>\$2.05</u>	<u>\$1.62</u>
<u>Minimum fee per month:</u>	<u>\$35.60</u>	<u>\$27.00</u>	<u>\$25.40</u>	<u>\$23.70</u>	<u>\$21.00</u>
<u>Skiff and dinghy moorings fore and aft, all types:</u>	<u>\$1.95</u>	<u>\$1.84</u>	<u>\$1.68</u>	<u>\$1.57</u>	<u>\$0.55</u>
<u>Minimum fee per month:</u>	<u>\$26.00</u>	<u>\$23.20</u>	<u>\$21.35</u>	<u>\$18.80</u>	<u>\$5.25</u>
<u>Work docks (per foot/vessel length/day):</u>	<u>\$0.60</u>	<u>\$0.55</u>	<u>\$0.43</u>	<u>\$0.38</u>	<u>\$0.32</u>
<u>Minimum fee per month:</u>	<u>\$7.50</u>	<u>\$6.50</u>	<u>\$5.40</u>	<u>\$4.30</u>	<u>\$3.25</u>

(3) Mooring rates that become effective on the first day of the financial year in which a subsequent \$10 million CIP reimbursable bond issue is funded for the small boat facilities:

Category	A	B	C	D	E
<u>Along catwalk:</u>	<u>\$6.12</u>	<u>\$4.67</u>	<u>\$4.37</u>	<u>\$4.08</u>	<u>\$1.75</u>
<u>Bow-stern mooring:</u>	<u>\$5.12</u>	<u>\$4.17</u>	<u>\$3.87</u>	<u>\$3.58</u>	<u>\$1.75</u>
<u>On state buoy,</u> <u>anchor or cable</u>					
<u>Minimum fee per month:</u>	<u>\$60.00</u>	<u>\$50.00</u>	<u>\$45.00</u>	<u>\$42.00</u>	<u>\$22.00</u>
<u>On owner's buoy or anchor:</u>	<u>\$3.20</u>	<u>\$2.68</u>	<u>\$2.33</u>	<u>\$2.16</u>	<u>\$1.75</u>
<u>Minimum fee per month:</u>	<u>\$42.00</u>	<u>\$39.00</u>	<u>\$36.00</u>	<u>\$33.00</u>	<u>\$22.00</u>
<u>In harbor basin:</u>	<u>\$4.67</u>	<u>\$4.00</u>	<u>\$3.50</u>	<u>\$3.25</u>	<u>\$1.75</u>
<u>On state cable, buoy</u> <u>or anchor</u>					
<u>Minimum fee per month:</u>	<u>\$56.00</u>	<u>\$46.00</u>	<u>\$42.00</u>	<u>\$38.00</u>	<u>\$22.00</u>
<u>On owner's buoy or anchor:</u>	<u>\$3.15</u>	<u>\$2.45</u>	<u>\$2.27</u>	<u>\$2.21</u>	<u>\$1.75</u>
<u>Minimum fee per month:</u>	<u>\$38.50</u>	<u>\$29.00</u>	<u>\$27.00</u>	<u>\$25.00</u>	<u>\$22.00</u>
<u>Skiff and dinghy moorings</u> <u>fore and aft, all types:</u>	<u>\$2.10</u>	<u>\$2.00</u>	<u>\$1.81</u>	<u>\$1.70</u>	<u>\$0.60</u>
<u>Minimum fee per month:</u>	<u>\$28.00</u>	<u>\$25.00</u>	<u>\$23.00</u>	<u>\$20.00</u>	<u>\$5.50</u>
<u>Work docks (per foot/vessel</u> <u>length/day):</u>	<u>\$0.65</u>	<u>\$0.60</u>	<u>\$0.46</u>	<u>\$0.41</u>	<u>\$0.35</u>
<u>Minimum fee per month:</u>	<u>\$8.00</u>	<u>\$7.00</u>	<u>\$6.00</u>	<u>\$5.00</u>	<u>\$3.50</u>

(b) The mooring rate schedule in subsection (a) shall apply to single-hulled vessels, except as otherwise [prescribed] provided in this section, or in sections 13-234-5, 13-234-7 and 13-234-25.

(c) A multi-hulled vessel shall be charged mooring fees in proportion to berths used in increments of one, one and one-half, or two times the fee prescribed in subsection (a) for a single-hulled vessel of equal length.

(d) When more than one vessel occupies a single berth end to end, the charge shall be computed at the rate [prescribed] provided in subsection (a).

(e) Except for [subsection (a)(5)] fees for work docks, which [sets] set out the minimum charges per day, the amounts set out in the mooring rate schedules in subsection (a) are the minimum charges per month.

[(f) If the assigned berth/mooring under subsection (a)(1) and (a)(2) is not provided with electricity, the fee prescribed shall be decreased by \$.05 per foot per month.]” [Eff 2/24/94; am and comp] {Auth: HRS §§ 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§ 200-6, 200-10, 200-12, 200-22, 200-24)

2. Section 13-234-4, Hawaii Administrative Rules, is amended to read as follows:

“13-234-4 Mooring rates for offshore mooring and anchoring.

(a) The [following] mooring rate schedule set forth in paragraph (1) shall become effective on the first day of the [calendar] first full month [following] occurring after the effective date of the 2005 drafted amendments [of] to this section and shall be increased twice thereafter, as set forth in paragraphs (2) and (3) on the first day of the fiscal year(s) in which a CIP bond issue is to be funded for the small boat facilities. The mooring rate schedule is per foot of vessel length overall per month:

[(1) On state buoy, anchor or cable:

vessel length	rate:
0 - 30'	\$1.50
31 - 40'	\$1.15
41 - 50'	\$1.25
51 - 60'	\$1.35
61 - 70'	\$1.45
71 - 80'	\$1.55
81 - 90'	\$1.65
over 90'	\$1.75
Minimum monthly fee	\$25.00

(2) On owner's own buoy or at anchor:

vessel length	rate:
0 - 30'	\$0.70
31 - 40'	\$0.80
41 - 50'	\$0.90
51 - 60'	\$1.00
61 - 70'	\$1.10
71 - 80'	\$1.20
81 - 90'	\$1.30
over 90'	\$1.40
Minimum monthly fee	\$16.50]

(1) Offshore mooring and anchoring rates as of the first day of the first full month occurring after the effective date of the 2005 drafted amendments to this section:

<u>Vessel Length Overall</u>	<u>On State Buoy, Anchor or Cable</u>	<u>On Owner's Own Buoy, or at Anchor</u>
<u>0'-30'</u>	<u>\$1.31</u>	<u>\$0.88</u>
<u>31'-40'</u>	<u>\$1.44</u>	<u>\$1.00</u>
<u>41'-50'</u>	<u>\$1.56</u>	<u>\$1.13</u>
<u>51'-60'</u>	<u>\$1.69</u>	<u>\$1.25</u>
<u>61'-70'</u>	<u>\$1.81</u>	<u>\$1.38</u>
<u>71'-80'</u>	<u>\$1.94</u>	<u>\$1.50</u>
<u>81'-90'</u>	<u>\$2.06</u>	<u>\$1.63</u>
<u>Over 90'</u>	<u>\$2.19</u>	<u>\$1.75</u>
<u>Minimum Monthly Fee</u>	<u>\$31.25</u>	<u>\$20.63</u>

(2) Offshore mooring and anchoring rates that will become effective on the first day of the first financial year, after the rates in paragraph (1) become effective, in which a CIP bond issue is funded for the small boat facilities:

<u>Vessel Length Overall</u>	<u>On State Buoy, Anchor or Cable</u>	<u>On Owner's Own Buoy, or at Anchor</u>
<u>0'-30'</u>	<u>\$1.41</u>	<u>\$0.95</u>
<u>31'-40'</u>	<u>\$1.56</u>	<u>\$1.08</u>
<u>41'-50'</u>	<u>\$1.68</u>	<u>\$1.22</u>
<u>51'-60'</u>	<u>\$1.83</u>	<u>\$1.35</u>
<u>61'-70'</u>	<u>\$1.95</u>	<u>\$1.49</u>
<u>71'-80'</u>	<u>\$2.10</u>	<u>\$1.62</u>
<u>81'-90'</u>	<u>\$2.22</u>	<u>\$1.76</u>
<u>Over 90'</u>	<u>\$2.37</u>	<u>\$1.89</u>
<u>Minimum Monthly Fee</u>	<u>\$33.75</u>	<u>\$22.28</u>

(3) Offshore mooring and anchoring rates that will become effective on the first day of the second financial year, after the rates in paragraph (1) become effective, in which a CIP bond issue is funded for the small boat facilities:

<u>Vessel Length</u> <u>Overall</u>	<u>On State Buoy, Anchor or</u> <u>Cable</u>	<u>On Owner's Own Buoy, or at</u> <u>Anchor</u>
<u>0'-30'</u>	<u>\$1.52</u>	<u>\$1.03</u>
<u>31'-40'</u>	<u>\$1.68</u>	<u>\$1.17</u>
<u>41'-50'</u>	<u>\$1.82</u>	<u>\$1.32</u>
<u>51'-60'</u>	<u>\$1.97</u>	<u>\$1.46</u>
<u>61'-70'</u>	<u>\$2.11</u>	<u>\$1.61</u>
<u>71'-80'</u>	<u>\$2.26</u>	<u>\$1.75</u>
<u>81'-90'</u>	<u>\$2.40</u>	<u>\$1.90</u>
<u>Over 90'</u>	<u>\$2.56</u>	<u>\$2.04</u>
<u>Minimum Monthly Fee</u>	<u>\$36.45</u>	<u>\$24.06</u>

(b) The fee for barges, platforms, and [other] commercial vessels [over fifty feet in length] having no operating means of propulsion shall be two times the rate listed in subsection (a).

(c) The fee for vessels anchored or moored without a permit issued by the department shall be at the rate [specified] as provided in section 13-234-5.

(d) Persons issued a mooring permit under this section shall be entitled to the use of any designated dinghy mooring area at no charge."

[Eff 2/24/94; am and comp] (Auth: HRS §§ 200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

3. Section 13-234-5, Hawaii Administrative Rules, is amended to read as follows

“13-234-5 Mooring fees for vessels assigned temporary moorings or occupying moorings without permission. (a) [Visitors and others] Persons assigned a [berth] mooring for a temporary period of more than thirty days shall make the security deposit and pay mooring fees as prescribed this chapter.

(b) Those assigned a [berth] mooring for a period of thirty days or less shall not be required to make the security deposit [referred to] as provided in section 13-234-2, [as they] but shall be required to pay fees in advance.

(c) The fees [prescribed] described in subsection (d) shall apply for the entire period the vessel is in the [small boat harbor] state boating facility.

(d) The mooring fees for a vessel assigned a [berth] for thirty days or less shall be as provided in sections 13-234-3 or 13-234-4, plus ten per cent for each twenty-four hours or any fraction of that time period.

[Vessel Length	Rate per 24 hours or fraction thereof	
	At Berth	At Anchor or Moored
(1) Less than 20 feet	\$3.25	\$2.25
(2) 20 feet or more but less than 30 feet	\$4.60	\$3.00
(3) 30 feet or more but less than 40 feet	\$5.75	\$3.75
(4) 40 feet or more but less than 50 feet	\$6.90	\$4.50
(5) 50 feet but less than 60 feet	\$7.95	\$5.75
(6) 60 feet but less than 70 feet	\$9.20	\$7.50
(7) 70 feet but less than 80 feet	\$10.35	\$8.50
(8) 80 feet but less than 90 feet	\$11.50	\$9.25
(9) 90 feet but less than 100 feet	\$12.65	\$11.50
(10) 100 feet or more	\$13.80	\$13.00]

(e) The mooring fees for a vessel moored in a [small boat harbor] state boating facility without permission of the department or in violation of section 13-231-17 shall be:

<u>Length of stay</u>	<u>Fee</u>
(1) 30 days or less	[to]1-1/2 times the fees stated in subsection (d) [above];
(2) 31-60 days	[-] 2 times the fees stated in subsection (d) [above] for the period over 30 days;
(3) More than 60 days	[-] 3 times the fees stated in subsection (d) for the period over 60 days.

(f) The fees for a vessel moored in a state boating facility work dock area in violation of this section or section 13-231-17 shall be:

<u>Length of stay</u>	<u>Fee</u>
(1) 30 days or less	1-1/2 times the fees stated in subsection (d);
(2) 31-60 days	2 times the fees stated in subsection (d) for the period over 30 days;
(3) More than 60 days	3 times the fees stated in subsection (d) for the period over 60 days.

[[f)] (g) In addition to any civil remedy or criminal action available to the department, vessels moored without permission shall be liable for the payment of fees chargeable to [such] the moorage. The acceptance of the payment shall not waive the nature of trespass or ratify or permit the unlawful or illegal mooring.” [Eff 2/24/94; am and comp] (Auth: HRS §§ 200-6, 200-10, 200-12, 200-22, 200-24) (Imp: HRS §§ 200-6, 200-10, 200-12, 200-22, 200-24)

4. Section 13-234-25, Hawaii Administrative Rules, is amended to read as follows

"13-234-25 Fees [and charges] for commercial vessels [at state small boat harbors] using state boating facilities, Kaneohe Bay ocean waters, and beaches of the State. (a) [The] Notwithstanding the [The] provisions of section 13-234-3 [notwithstanding], the following fees and charges shall be assessed for services provided by the department relating to mooring in[,] or [use of,] using state [small boat harbor] boating facilities, Kaneohe Bay ocean waters and beaches of the State: [and services by a commercial vessel:]

- (1) [For vessels] The fee per month per vessel for a permittee with a commercial activity permit and regular mooring permit [. The fee per month, per vessel, for mooring of and use of the]who moors in and uses a small boat harbor or any of the facilities [by a commercial vessel] in these harbors shall be the greater of two times the mooring fees [prescribed] as provided in section 13-234-3 or [two] three per cent of the monthly gross receipts [whichever is greater], as of the first day of the first full month occurring after the effective date of the 2005 drafted amendments to this section. In addition to the [aforementioned fee for] mooring [a commercial vessel in these small boat harbors] fees as provided in this section and section 13-234-3, the permittee shall also pay fees and charges in the amounts prescribed in these rules for any other facilities and services utilized [in] at the small boat harbor.
- (2) The fee per month for a permittee with a commercial activity permit for a boat ramp, wharf, or other state boating facility, except a state small boat harbor, shall be the greater of \$200 per month or three per cent of the monthly gross receipts, as of the first day of the first full month occurring after the effective date of the 2005 drafted amendments to this section. The single fee assessed for the use of a state boat ramp shall entitle the permittee to use any other state boat ramp on the same island without an additional charge, except for those boat ramps listed in section 13-231-67. The department shall provide, upon issuance of a commercial activity permit for a state boat ramp, a set of trailer decals that shall be displayed on each side of the forward end of the trailer tongue.
- [(2)] (3) For [vessels] permittees with a commercial activity permit only, the fee per month, [per vessel] for the use of [these small boat harbors or any of their facilities] a state boating facility, Kaneohe Bay ocean waters or beaches of the State as defined by section 13-230-8, [by a commercial vessel moored elsewhere] shall be the greater of [\$100] \$200 or [two] three per cent of the monthly gross receipts as of the first day of the first full month occurring after the effective date of the 2005 drafted amendments to this section.
- [(3)] (4) The report of gross receipts shall be received by the department not later than the end of the month following the reported month and shall be submitted on a form acceptable to the department. [Failure] Unless otherwise provided by statutes, failure to submit the report of gross receipts as required for a period in excess of sixty days shall be cause for [termination] automatic revocation of the commercial activity permit.
- [(4)] (5) For [vessels which] permittees who have been issued a valid commercial activity permit for the use of more than one small boat harbor, the permittee shall

designate the small boat harbor of principal use, and the [two per cent] percentage of monthly gross receipts described in this section shall be paid to that account. The fees for commercial activity permits issued for the other small boat harbors shall be the minimum amount specified in paragraph (2) or paragraph (1) for those permittees with small boat harbor mooring permits.

- [(5)] (6) For [vessels] permittees issued a temporary mooring permit and a commercial activity permit, the fee per month shall be the greater of the temporary mooring fees required by section 13-234-5 or [two] three per cent of the monthly gross receipts as of the first day of the first full month occurring after the effective date of the 2005 drafted amendments to this section.

(7) For the purpose of this section, until the first day of the first full month occurring after the effective date of the 2005 drafted amendments to this section, the fees existing prior to the effective date shall remain in full force and effect.

- (b) When the commercial activity permit is issued, the department shall also provide a set of commercial trailer decals for commercial trailered vessels, at no charge, which shall be displayed on each side of the forward end of the trailer tongue.

- (c) Vessels used by a commercial activity permittee for shuttle operations transporting passengers to and from the commercial activity permittee's primary operating vessel and vessels under contracts to perform shuttle operations for passenger cruises, which moor at a state boating facility, shall be required to have a designated state boating facility of principal use and the fee charged under this section shall be paid to the principal use account.

- [(6)] (d) [Audit.] The department [reserves the right to] may conduct [an] a financial audit [as necessary] of the records of any commercial activity permit account to determine the accuracy of reported gross receipts [fees owing to the department, and] or inspect any other financial information, to and including Gross Excise Tax records,[necessary and proper] directly related to the [enforce] enforcement of these rules after providing notice, as described in section 13-230-6, not less than thirty days prior to the audit.

- [(b)] (e) The department may, by lease, permit, or mooring permit, in accordance with state statutes grant the use or possession of [small boat harbor] state boating facilities. The leases [or] and permits shall provide for payments of rentals, fees and charges, and other conditions in accordance with law, in lieu of and notwithstanding the provisions for fees [and charges] specified in these rules." [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-10, 200-22, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-10, 200-22, 200-24, 200-39)

5. Section 13-234-34, Hawaii Administrative Rules, is amended to read as follows

“13-234-34 User [Fee] fee for recreational use of state boat [launching] ramps.

(a) An annual boat ramp decal user fee of [~~\$25~~] \$40 shall be paid by owners of trailered vessels using state [launching ramps and other] boating facilities for recreational and fishing purposes to gain access to the waters of the State for the purpose of defraying costs of maintenance of the state boating facilities and use of fresh water. The \$40 boat ramp decal fee shall become effective on the first day of the first full month occurring after the effective date of the 2005 drafted amendments to this section and shall increase to \$45 effective on the first day of the twelfth calendar month following the effective date of the \$40 fee, and shall again increase to \$50 effective on the first day of the twelfth calendar month following the effective date of the \$45 fee.

[(b)] Owners of trailered commercial passenger vessels who pay the commercial fee for use of state launching ramps and other boating facilities under the provisions of section 13-234-31 are exempt from the requirements of subsection (a).]

[(c)] (b) [This] In addition to the vessel registration fee, the annual boat ramp decal fee described in subsection (a) shall be paid in full at the time of [initial] registration or registration renewal[, in addition to the vessel registration fee].

[(d)] (c) The recreational owner shall be furnished a set of trailer decals by the department upon payment of this fee, [which] Current boat ramp decals shall be affixed to each side of the forward end of the trailer tongue [as evidence of payment] whenever the vessel trailer is operated or stored at a state boating facility.

(d) Notwithstanding subsection (c), a boat dealer or manufacturer shall be allowed to place the ramp decal on the dashboard of the vehicle used to transport the demonstration vessel.” [Eff 2/24/94 am and comp] (Auth: HRS §§ 200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§ 200-2, 200-3, 200-4, 200-22, 200-24)